

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 33664 of 2006(G)

PETITIONER:

V.H.ABDUL KHADER, S/O. HYDROSE,
AGED 48 YEARS, VIRUTHIPARAMBIL HOUSE,
SREEMOOLANAGARAM P.O., (VIA) ALUVA.

BY ADV. SRI.P.JAYAKUMAR

RESPONDENTS:

- 1.SREEMOOLANAGARAM GRAMA PANCHAYAT,
SREEMOOLANAGARAM P.O., (VIA) ALUVA,
REPRESENTED BY ITS SECRETARY.
- 2.THE SECRETARY,
SREEMOOLANAGARAM GRAMA PANCHAYAT,
SREEMOOLANAGARAM P.O., (VIA) ALUVA.
- 3.OMBUDSMAN FOR LOCAL SELF GOVERNMENT
INSTITUTIONS, THIRUVANANTHAPURAM.

R1-R2 BY ADV. SRI.K.S.AJAYAGHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

.....
W.P.(C) No.33664 OF 2006
.....

DATED THIS THE 19th DECEMBER, 2006

J U D G M E N T

The grievance of the petitioner is that the 1st respondent-Sreemoolanagaram Grama Panchayat has issued Ext.P5 order on his application for licence for manufacturing clay bricks on the ground that the Ombudsman for Local Self Government Institutions has passed Ext.P6 order.

2. I have heard the submissions of Sri.P.Jayakumar, counsel for the petitioner and Sri.Ajay Ghosh, counsel for the Panchayat.

3. Sri.Ajay Ghosh, counsel for the Panchayat would refer to Ext.P6 interim order passed by the Ombudsman and submit that the order contains an interdict against granting of new licence. The application was for fresh licence and not for renewal of existing licence. He would distinguish the earlier orders passed by this Court after noticing Ext.P6 order as being issued in cases which related to applications for renewal of licences.

4. Sri.P.Jayakumar, counsel for the petitioner would respond to both the above submissions. According to him, the complaint before the Ombudsman which resulted in Ext.P6 was a complaint alleging indiscriminate quarrying of clay from properties in Sreemoolanagaram Village. Counsel submits that the petitioner is not quarrying clay and

he has no intention to quarry clay from out of any properties within the limits of the Panchayat.

5. Having considered the submissions in the light of the materials placed on record including Ext.P6 order of the Ombudsman, I feel that what has been found to be objectionable by the Ombudsman as per Ext.P6 is quarrying of clay from the properties within the Panchayat. Ext.P6 order need not stand in the way of the petitioner manufacturing bricks within the limits of the Panchayat with raw-materials procured from outside. Accordingly the Writ Petition will stand allowed in the following terms:-

Exts.P5 will stand quashed. The Panchayat will reconsider the application submitted by the petitioner notwithstanding Ext.P6, for re-starting the brick manufacturing unit. Orders as directed above will be passed by the Panchayat within three weeks of their receiving a copy of this judgment. There will be a further order that the petitioner shall not dig or quarry clay from out of any properties situated within the limits of the 1st respondent-Panchayat so as to procure raw-material for his industry.

(PIUS C. KURIAKOSE, JUDGE)

tgl

tgl

(PIUS C. KURIAKOSE, JUDGE)

